IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

1) **CRA-S-1335-SB-2004**
Decided on : 13.11.2019

Hoshiar Singh @ Jeet Singh

. . . Appellant(s)

Versus

State of Punjab

. . . Respondent(s)

2) **CRA-S-1409-SB-2004**

Jaswant Singh

. . . Appellant(s)

Versus

State of Punjab

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Argued by: Mr. Arshvir Singh Sandhu, Advocate
for the appellant (in CRA-S-1335-SB-2004).

Mr. Sandeep Jasuja, Advocate
for the appellant (in CRA-S-1409-SB-2004).

Ms. Jaspreet Kaur, AAG, Punjab.

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MANJARI NEHRU KAUL, J.

This order will dispose of two cases i.e. CRA-S-1335-SB-2004 and CRA-S-1409-SB-2004, as the appeals have arisen out of the same judgment. For the sake of convenience, the facts are being extracted from CRA-S-1335-SB-2004.

1. The above mentioned appeal has been preferred against the impugned judgment and order of conviction dated 26th April, 2004, passed by Addl. Sessions Judge, Fast Track Court, Ferozepur, vide which the accused-appellant(s)

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were convicted and sentenced as under : -

Name of Convict(s)	***Offence(s)***	***Rigorous Imprisonment/ Period of sentence(s)***	***Fine(s) imposed***	***Period of sentence(s) in default of payment of fine(s)***
Jaswant Singh	*307 IPC*	*7 years*	*₹ 2000/-*	*Three months*
	325/34 IPC	*1-1/2 years*	*₹ 500/-*	*One month*
	324 IPC (Two counts)	*1 year*	*₹ 500/-*	*One month*
	323/34 IPC	*6 months*	*--*	*--*
Hoshiar Singh @ Jeet Singh	*307/34 IPC*	*5 years*	*₹ 1000/-*	*Three months*
	325 IPC	*2 years*	*₹ 500/-*	*One month*
	324/34 IPC	*6 months*	*₹ 200/-*	*One month*
	323 IPC	*6 months*	*--*	*--*

All the sentences were ordered to run concurrently.

2. The prosecution case in brief is that on 01.06.2003 at about 09:00 P.M. when PW-1/Mohinder Ram was going to serve meals to his son who was working in the fields, accused-appellant/Jaswant Singh armed with a knife, accused-appellant/Hoshiar Singh @ Jeet Singh armed with an iron rod and accused Soma and Seema (since acquitted) empty handed came in front of the house of Mohinder Ram. Accused-appellant/Jaswant Singh, thereafter, raised a lalkara to teach PW-1/Mohinder Ram a lesson for complaining against him to his family. He, thereafter, inflicted an injury with a knife on the forehead of Mohinder Ram. On an alarm raised by Mohinder Ram, his younger brother PW-2/Joginder Ram and mother PW-3/Bhagwanti came out of the house and tried to rescue Mohinder Ram from the clutches of the accused. Accused Soma & Seema caught hold of Joginder Ram while accused-appellant/Jaswant Singh inflicted six

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consecutive blows with a knife on the person of Joginder Ram hitting him on various parts of his body. Accused-appellant/Hoshiar Singh @ Jeet Singh inflicted a rod blow on the testicles of Joginder Ram and further inflicted a rod blow on the left hand of Bhagwanti. Hearing the hue & cry, Bagicha Ram, a nephew of Mohinder Ram was attracted to the spot. The occurrence was also seen by Inderjit Singh and Sarwan Ram who arrived at the spot soon thereafter. After inflicting the aforementioned injuries, the accused ran away from the spot along with their respective weapons. Bagicha Ram then arranged a vehicle and shifted the injured to the Civil Hospital, Jalalabad, where, they were medico legally examined by PW-7/Dr. Parveen Kumar Garg, who found the following injuries:-

PW-1/Mohinder Ram

> *"1. An incised wound of 4 cm X 0.5 cm on the anterior part of the scull in the middle part. Fresh bleeding was present. X-ray was advised."*

PW-2/Joginder Ram

> *"1. An incised wound of 3.5 cm X 1 cm was present on the left side of arm in the part. Fresh bleeding was present. X-ray was advised.*
>
> *2. An incised wound of 6 cm X 1 cm was present on the left side of arm on the lateral aspect, 8 cm from injury No.1. Fresh Bleeding was present X-ray was advised.*
>
> *3. An incised wound of 3 cm X 1 cm was present on the left scapular region. Fresh bleeding was present. X-ray was advised.*

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4. An incised wound of 1.5 cm X 0.5 cm was present on the left scapular region. 7 cm from injury No.3. Fresh bleeding was present.

5. An incised wound of 2 cm X 0.5 cm was present on the back of left forearm. 3 cm from olecranon process. Fresh bleeding was present. X-ray was advised.

6. An incised wound of 2 cm X 0.5 cm was present on the left side of chest on the anterior aspect in the lower part. Fresh bleeding was present. X-ray was advised.

7. Patient complained of pain in the scrotal region. No external evidence of injury."

PW-3/Bhagwanti

"1. A swelling of 7 cm X 5 cm was present on the dorsum of left hand extending on to the fingers. X-ray was advised."

It was alleged that the motive for the crime was that a day prior to the occurrence, accused-appellant/Jaswant Singh had thrown stones at the house of Mohinder Ram *qua* which a complaint had been lodged by Mohinder Ram and his family to the family of accused-appellant/Jaswant Singh and thus, he was nourishing a grudge against them. On receipt of the intimation about the admission of the injured in Civil Hospital, Jalalabad, PW-4/HC Didar Singh recorded the statement Ex.P1 of complainant - PW-1/Mohinder Ram at 03:40 AM on 02nd June, 2003, leading to the registration of the FIR Ex.P3 against the accused under Sections 324, 323, 34 IPC.

3. On receipt of report regarding the nature of injury No. 6

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suffered by PW-2/Joginder Ram and the injury suffered by PW-3/Bhagwanti, offences under Sections 307, 325 IPC were added. Accused-appellant/Jaswant Singh was arrested on 10.06.2003. During interrogation, he suffered a disclosure statement Ex.P8, in pursuance to which, he got recovered the weapon of offence i.e. knife, which was taken into possession vide recovery memo Ex.P9 by the Investigating Agency. On 19th June, 2003, accused-appellant/Hoshiar Singh @ Jeet Singh was arrested, who too suffered his disclosure statement Ex.P12, leading to the recovery of an iron rod, which was taken into possession vide recovery memo Ex.P13 by the Investigating Agency. Since the accused Soma and Seema were found innocent during the investigation, they were not challaned. They were subsequently summoned under Section 319 Cr.P.C. to face trial along with the appellants Hoshiar Singh @ Jeet Singh and Jaswant Singh.

4. The prosecution in support of its case examined as many as 07 witnesses including the complainant - Mohinder Ram, who stepped into witness-box as PW-1 and other injured witnesses PW-2/Joginder Ram and PW-3/Bhagwanti, besides examining PW-7/Dr. Parveen Kumar Garg, who medico legally examined the injured witnesses. When examined under Section 313 Cr.P.C., the accused-appellants denied the incriminating circumstances appearing against them and pleaded false implication. Accused-appellant Jaswant Singh stated that he had been falsely implicated in order to take revenge because of his illicit relations with Usha wife of PW-2/Joginder Ram. In defense, accused-appellant/Hoshiar Singh @ Jeet Singh examined DW-1/Surjit Singh, Ex-Sarpanch of village.

5. Ld. Trial Court convicted the accused-appellants by holding that

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the case against them stood proved and sentenced them as already detailed hereinabove. Accused Soma and Seema were acquitted by giving them the benefit of doubt.

6. I have heard learned counsel for the appellants as well as the learned State counsel and also gone through the evidence and other material available on record.

7. Learned counsel for the appellants have vehemently argued that the delay of almost six hours in lodging of the FIR clearly indicates that the appellants had been falsely implicated in the instant case due to the illicit relations of PW-2/Joginder Ram's wife with accused-appellant/Jaswant Singh. It has been further urged that the learned trial Court failed to appreciate the fact that while going to the hospital, the complainant including other injured witnesses had passed the police station, yet for reasons but obvious they chose not to report to the police and later on came up with a coloured version to falsely implicate the appellants in the instant case.

8. I have given my thoughtful consideration to the submissions made by the learned counsel for the appellants, the same deserves to be rejected outrightly. It is a matter of record that all the three witnesses i.e. PW-1/Mohinder Ram, PW-2/Joginder Ram and PW-3/Bhagwanti, are stamped witnesses, having suffered various injuries on their person. One of the seven injuries suffered by PW-2/Joginder Ram, was declared to be dangerous to life while the injury of PW-1/Mohinder Ram was an incised wound on the forehead. PW-3/Bhagwanti, as per the medical evidence on record suffered a fracture on her left hand in the alleged occurrence. Hence,

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in this background, the conduct of the complainant party driving straight to the hospital and not stopping over at the police station to lodge a complaint is most natural. It need not be emphasized that in cases of this kind, the first and foremost anxiety of the injured is naturally to rush to the nearest medical facility to get themselves treated. It is a matter of record that the injured witnesses had been removed to the hospital soon after the occurrence at 09:30 PM and had been medico legally examined by the PW-7/Dr. Parveen Kumar Garg at 10:45 PM on the same day. Vide Ex.P14, an application moved by PW-4/HC Didar Singh, injured complainant PW-1/Mohinder Ram was declared fit to make a statement, by the attending doctor at 02:30 A.M. on 02nd June, 2003. Soon thereafter, his statement Ex.P1 was recorded, in which he gave a vivid and lucid account of the entire occurrence including the role of each of the accused-appellants. In this background, it cannot be held to be a case of a delayed FIR.

9. Learned counsel for the appellants further argued that PW-7/Dr. Parveen Kumar Garg, in his cross-examination did not rule out the possibility of injuries on PW-2/Joginder Ram, as being self-suffered or a result of a friendly hand. However, a perusal of the deposition as well as the cross-examination of PW-7/Dr. Garg, reveals that no doubt he stated that injuries No. 1 to 5 & 7 could have been caused by a friendly hand, but so far as injury No.6 on PW-2/Joginder Ram is concerned, the same was declared to be dangerous to life and PW-7/Dr. Garg, did not opine that the same could have been caused with a friendly hand. It is unbelievable that to implicate the appellant-Jaswant Singh on account of his alleged illicit relations with the wife of PW-2/Joginder Ram, the complainant party would fabricate

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injuries such as the one received by all the three injured witnesses including the one on the chest of PW-2/Joginder Ram, which was declared to be dangerous to life. Even *qua* the motive behind the occurrence of their being illicit relations between accused-appellant/Jaswant Singh and the wife of PW-2/Joginder Ram, no cogent, much less, convincing evidence was led by the defense. The defense did suggest to PW-1/Mohinder Ram that there had been an exchange of love letters between the appellant-Jaswant Singh and the wife of PW-2/Joginder Ram and the matter had also been brought to the notice of the Panchayat. However, this suggestion remained a suggestion only on paper, as no evidence, whatsoever, was adduced in support thereof.

10. The next challenge of the learned counsel for the appellants is *qua* the opinion given by PW-7/Dr. Garg, regarding injury No. 6 of PW-2/Joginder Ram, being dangerous to life. A perusal of the deposition of PW-7/Dr. Garg, reveals that when an X-Ray was done vide X-Ray report Ex.P-22, he observed surgical emphysema on the left side of the chest of injured PW-2/Joginder Ram, as a result of which the injury was declared dangerous to life. Vide Ex.P32, It was noticed by the attending doctor that cyst was also found on the left side of the chest extending to the neck. Seeing the condition of the injured PW-2/Joginder Ram, he was referred to Guru Gobind Singh Medical College and Hospital for further treatment. Once surgical emphysema was found in the lungs of injured PW-2/Joginder Ram coupled with sub cutaneous emphysema and typical criptus and air, the likelihood of suffocation could not be ruled out. Hence, PW-7/Dr. Garg, cannot be faulted with as it could have lead to fatal respiratory failure.

11. As a sequel to the above discussion, no interference is warranted

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in the impugned judgment of the learned trial Court, which deserves to be upheld, as the same is a well reasoned one. Consequently, both the appeals stand dismissed. The accused-appellants are on bail. Their bail bonds/surety bonds stand cancelled. Necessary steps be taken to secure their custody.

(MANJARI NEHRU KAUL)
JUDGE

November 13, 2019
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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